

## **HUMAN SERVICES DEPARTMENT[441]**

### **Notice of Intended Action**

Pursuant to the authority of Iowa code section 225C.6 and 2015 Iowa Acts, House File 468, the Department of Human Services hereby gives Notice of Intended Action to amend Chapter 25, “Disability Services Management, Iowa Administrative Code.

Notice of Intended Action was originally filed in the Iowa Administrative Bulletin as **ARC 2350C** on December 11, 2015. Subsequently, the amendments were published in the Iowa Administrative Bulletin as **ARC 2438C** on March 18, 2016. The published amendment were effective May 1, 2016 except for 441--25.106, Data Collection Requirements. At its April 8th, 2016 meeting, the Administrative Rules Review Committee (ARRC) voted to delay the effective date of the portion of **ARC 2438C**, specifically rule 441—25.106(229), relating to data collection, for 70 days pursuant to Iowa Code §17A.4(7). At the July 12th meeting, the ARRC put this portion of the rules on a session delay while the Department worked with stakeholders and the Mental Health and Disability Services Commission to resolve the differences and develop a mutually agreeable rule. The initial concerns of ARRC members included the timing, cost and need for data collection. The Department, with input from mental health advocates, regions and ISAC, revised the amendments to address these concerns.

This amendment establishes data collection standards for mental health advocates who provide services under Iowa Administrative Code Chapter 441--25, Division X. These standards will create a consistent reporting framework. The initial data reporting date was delayed one year in this set of proposed rules. The new initial reporting date is December 1, 2017 for the previous state fiscal year.

Any interested person may make written comments on the proposed amendments on or before September 6, 2016. Comments should be directed to Harry Rossander, Bureau of Policy Coordination, Department of Human Services, Hoover State Office Building, 5<sup>th</sup> Floor, 1305 East Walnut Street, Des Moines, Iowa 50319-0114. Comments may be sent by fax to (515) 281-4980 or by email to [policyanalysis@dhs.state.ia.us](mailto:policyanalysis@dhs.state.ia.us).

These amendments do not provide for waivers in specified situations because requests for the waiver of any rule may be submitted under the Department's general rule on exceptions at 441—1.8(17A, 217).

After analysis and review of this rule making, no impact on jobs has been found.

This amendment is intended to implement Iowa code section 229.

The following amendment is proposed.

Amend rule **441—25.106(229)** as follows:

**441—25.106(229) Data collection requirements.**

**25.106(1)** Beginning ~~in 2016~~ December 1, 2017 and by December 1 each year, each county shall submit to the department of human services data regarding ~~each individual~~ who received advocate services during the previous state fiscal year.

**25.106(2)** ~~As defined in rule 441—25.41(331), the~~ The data to be submitted by each county are as follows: shall include the total number of individuals in the county assigned to a mental health advocate broken out by age and length of time on commitment.

a. ~~Basic information about the individual, including a unique identifier and county of residence.~~

b. ~~Demographic information, including the individual's date of birth, sex, ethnicity, education, and diagnosis made in accordance with the criteria provided in the current version of~~

~~the Diagnostic and Statistical Manual of Mental Disorders (DSM) published by the American Psychiatric Association (APA).~~

~~e. Commitment information, including the date of the individual's initial commitment, type of commitment order, whether a juvenile or adult case, date of commitment and name of treatment facility individual is committed to, any subsequent changes in treatment facility, and date commitment is terminated.~~



Iowa Department of Human Services  
**Information on Proposed Rules**

Name of Program Specialist Jan Heikes	Telephone Number 515-669-8002	Email Address jheikes@dhs.state.ia.us
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1. Give a brief summary of the rule changes:

These rules establish data collection standards for mental health advocates who provide services under Iowa Code chapter 229. IAC 441-25, Division X was effective May 1, 2016 except for 441-25.106, Data Collection Requirements. At its April 8th, 2016 meeting, the Administrative Rules Review Committee (ARRC) voted to delay the effective date of the portion of ARC 2438C adopting new rule 441—25.106(229), relating to data collection, for 70 days pursuant to Iowa Code §17A.4(7). At the July 12th meeting, the ARRC put this portion of the rules on a session delay while DHS worked with stakeholders and MHDS Commission to resolve the differences and develop a mutually agreeable rule.

2. What is the legal basis for the change? (Cite the authorizing state and federal statutes and federal regulations):

HF 468 from the 2015 Iowa legislation amends Iowa code section 229.19.4 to read “The state mental health and disability services commission created in section 225C.5, in consultation with advocates and county and judicial branch representatives, shall adopt rules pursuant to chapter 17A relating to advocates that include but are not limited to all of the following topics:

- a. Quarterly and annual reports.
- b. Data collection requirements.
- c. Juvenile patient representation.
- d. Grievance procedures.
- e. Conflict of interest provisions.
- f. Workforce coverage.
- g. Confidentiality.
- h. Minimum professional qualifications and educational requirements.
- i. Caseload criteria.
- j. Caseload audits.
- k. Quality assurance measures.
- l. Territory assignments.

Administrative rules became effective for all other topics except b. Data collection requirements on July 1, 2016.

3. What is the reason for the Department requesting these changes?

At the July 12th meeting, the ARRC put the effective date of this portion of the rules on a session delay while DHS worked with stakeholders and the MHDS Commission to resolve the differences and develop a mutually agreeable rule. Concerns included the timing, cost and need for data collection. DHS, with input from mental health advocates, regions and ISAC, revised the rules to address these concerns.

4. What will be the effect of this rule making (who, what, when, how)?

The rules provide statewide standard data collection requirements for mental health advocates. These standards will create a consistent reporting framework. The initial data reporting date was delayed one year in this set of proposed rules. The new initial reporting date is December 1, 2017 for the previous state fiscal year.

5. Is the change mandated by State or Federal Law?

Yes

6. Will anyone be affected by this rule change? If yes, who will be affected and will it be to the person's (organization's) benefit or detriment?

Prior to July 1, 2015, advocates were appointed by the judicial branch but were paid by the counties. Procedures varied from judicial region to judicial region and from county to county. The rules will provide consistency in the collection of data regarding advocate services. As employers, counties are the entity responsible for the supervision of the advocate who will now have consistent statewide data for quality assurance and planning purposes.

7. What are the potential benefits of this rule?

Courts, MHDS regions, and counties will have consistent data to plan and make decisions regarding what to expect of the advocate services wherever the services are provided in the state.

8. What are the potential costs, to the regulated community or the state of Iowa as a whole, of this rule?

According to Iowa State Association of Counties the cost to develop the advocate portion of the existing county data system, County Services Network, is projected to be less than \$10,000. MHDS regions have incorporated this cost into their projected budgets.

9. Do any other agencies regulate in this area? If so, what agencies and what Administrative Code sections apply?

There is no other reference to mental health advocates in Administrative Code. Courts assign advocates to individual under Iowa Code section 229.

10. What alternatives to direct regulation in this area are available to the agency? Why were other alternatives not used?

None.

11. Does this rule contain a waiver provision? If not, why?

No, because the intent was to create consistent, uniform standards for mental health advocate data collection across the state.

12. What are the likely areas of public comment?

Prior to this amendment mental health advocates questioned the purpose of collecting the data described in the rule, how the data would be used, the cost of collecting the data, and whether such data collection should be retroactive. Other stakeholders, such as members

of the MHDS Commission want to assure the data is meaningful and feel this amendment may not provide useful information to make system decisions.

13. Do these rules have an impact on private-sector jobs and employment opportunities in Iowa? (If yes, describe nature of impact, categories and number of jobs affected, state regions affected, costs to employer per employee)

No.



## Administrative Rule Fiscal Impact Statement

Date: 7/13/2016

**Agency:** Human Services

**IAC citation:** 441--25 IAC

**Agency contact:** Jan Heikes

**Summary of the rule:** These rules establish data collection standards for mental health advocates who provide services under Iowa Code chapter 229.

*Fill in this box if the impact meets these criteria:*

☒ No fiscal impact to the state.

☐ Fiscal impact of less than \$100,000 annually or \$500,000 over 5 years.

☐ Fiscal impact cannot be determined.

**Brief explanation:**

The cost to develop the advocate portion of the existing county data system, County Services Network, is projected to be less than \$10,000. MHDS regions have incorporated this cost into their projected budgets. Since the cost is covered by the MHDS regions, there is no fiscal impact to the State.

*Fill in the form below if the impact does not fit the criteria above:*

☐ Fiscal impact of \$100,000 annually or \$500,000 over 5 years.

**Assumptions:**

**Describe how estimates were derived:**

<b><i>Estimated Impact to the State by Fiscal Year</i></b>		
	<u>Year 1 (SFY17)</u>	<u>Year 2 (SFY18)</u>
<b>Revenue by each source:</b>		
General fund		
Federal funds		
Other (specify):		
<b>TOTAL REVENUE</b>		
<b>Expenditures:</b>		
General fund		
Federal funds		
Other (specify):		
<b>TOTAL EXPENDITURES</b>		
<b>NET IMPACT</b>		
<div style="margin-bottom: 10px;"> <input checked="" type="checkbox"/> This rule is required by state law or federal mandate.  <i>Please identify the state or federal law:</i>  Iowa Code chapter 229 </div> <div style="margin-bottom: 10px;"> <input type="checkbox"/> Funding has been provided for the rule change.  <i>Please identify the amount provided and the funding source:</i> </div> <div> <input type="checkbox"/> Funding has not been provided for the rule.  <i>Please explain how the agency will pay for the rule change:</i> </div>		
<b><i>Fiscal impact to persons affected by the rule:</i></b> None anticipated.		
<b><i>Fiscal impact to counties or other local governments (required by Iowa Code 25B.6):</i></b> The cost to develop the advocate portion of the existing county data system, County Services Network, is projected to be less than \$10,000. MHDS regions have incorporated this cost into their projected budgets.		
Agency representative preparing estimate:   Phil Davis, Budget Analyst III  Telephone number: 515-281-6017		